

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF WEST VIRGINIA**

**LANCE DARRELL MARTIN,**

**Petitioner,**

**v.**

**Civil No. 2:07CV63  
(Judge Maxwell)**

**WARDEN JOE DRIVER,**

**Respondent.**

**ORDER GRANTING *IN FORMA PAUPERIS* BUT REQUIRING  
PETITIONER TO PAY THE \$5.00 FILING FEE**

On August 13, 2007, the *pro se* petitioner initiated this case by filing a "Writ of Habeas Corpus Pursuant to 28 U.S.C. 2241". In addition, he filed an Application/Motion for Leave to Proceed Without Prepayment of Fee, which the court construes as a Motion for Leave to Proceed *in forma pauperis*. On August 14, 2007, the Clerk sent the petitioner a Notice of Deficient Pleading and attached a prisoner trust account report. On August 20, 2007, the petitioner submitted the completed prisoner trust account report with ledger sheets attached.

All litigants are required to pay the costs and fees associated with civil lawsuits unless their financial condition warrants a grant of *in forma pauperis* status pursuant to 28 U.S.C. § 1915. However, if a petitioner submits a certified copy of the trust fund statement for the six-month period immediately preceding the request, the Court may consider his request. In his affidavit of indigency, petitioner asserts that he has no assets and is not employed.. However, his prisoner trust account report reflects that at the time this case was filed, petitioner had an account balance of \$164.99.

Accordingly, the petitioner's application to proceed *in forma pauperis* (dckt. 2) is

**GRANTED.** However, because petitioner had sufficient funds in his account to pay the required filing fee at the time this case was filed, petitioner will be required to pay the \$5.00 filing fee within **thirty (30) days** from the date of this Order. **Failure to pay the \$5.00 fee within the required time period will result in a recommendation that his case be dismissed.**

IT IS SO ORDERED.

The Clerk is directed to send a copy of this Order to the *pro se* petitioner by certified mail, return receipt requested.

Dated: August 20, 2007

/s/ James E. Seibert  
JAMES E. SEIBERT  
UNITED STATES MAGISTRATE JUDGE